



April 19, 1999

Mr. John Steiner
Division Chief
Law Department
City of Austin
P.O. Box 1546
Austin, Texas 78767-1546

OR99-1042

Dear Mr. Steiner:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124084.

The City of Austin (the "city") received a request for a copy of the Request for Proposals (RFP) for a particular hotel, or the latest draft and a list of the companies that have or will receive the aforementioned RFPs. You released a list of the companies, but you claim that the RFP is still in draft form and should not be released. You claim that the draft RFP is excepted from disclosure under sections 552.104 and 552.111 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.104 of the Government Code states: "Information is excepted from the requirements of Section 552.021 if it is information that, if released, would give advantage to a competitor or bidder." The purpose of this exception is to protect the interests of a governmental body in competitive bidding situations. *See* Open Records Decision No. 592 (1991). Section 552.104 is not designed to protect the interests of private parties that submit information to a governmental body. *Id.* at 8-9. This exception protects information from public disclosure if the governmental body demonstrates potential specific harm to its interests in a particular competitive situation. *See* Open Records Decision Nos. 593 at 2 (1991), 463 (1987), 453 at 3 (1986). A general allegation of a remote possibility that some unknown "competitor" might gain some unspecified advantage by disclosure does not trigger section 552.104. Open Records Decision No. 463 at 2 (1987). After reviewing your arguments and the submitted information as well as your assertion that "an advanced look at specifications being considered for the project would provide a competitive advantage to potential proposers and damage the City's chance of getting the best possible proposal," we conclude that the draft RFP may be withheld from public disclosure pursuant to section 552.104 of the Government Code. Since we have resolved this issue under section 552.104, we need not address your other claim under section 552.111.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

David Van Brunt Price

David Van Brunt Price
Assistant Attorney General
Open Records Division

DVP\nc

Ref: ID# 124084

Encl: Submitted documents

cc: Mr. Collin Pope
Staff Writer
Austin Business Journal
111 Congress Avenue, Suite 750
Austin, Texas 78701
(w/o enclosures)